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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

TRUSTEES OF THE NEVADA RESORT  
ASSOCIATION-INTERNATIONAL  
ALLIANCE OF THEATRICAL STAGE  
EMPLOYEES AND MOVING PICTURE  
MACHINE OPERATORS OF THE  
UNITED STATES AND CANADA  
LOCAL 720 PENSION TRUST.

Plaintiffs,  
vs.

GRASSWOOD PARTNERS, INC., a California corporation; DALE STEVENS, an individual; ANNE STEVENS, an individual; OLD GLORY ASSET MANAGEMENT, LLC., a Pennsylvania limited liability corporation; OPTIQUE CAPITAL MANAGEMENT, INC., a Wisconsin corporation; MESSNER & SMITH THEME/VALUE INVESTMENT MANAGEMENT, LTD., a California corporation, MESSNER & SMITH, L.L.C., a California limited liability company, MESSNER AND SMITH SMALL/MID PARTNERS, L.P., a California limited partnership, and MESSNER SMITH & ASSOCIATES, LLC, a California limited liability company

### Defendants.

Case No. 2:11-cv-00044-RLH-RJJ

**MOTION TO SET ASIDE DEFUALTS  
AGAINST DEFENDANTS MESSNER &  
SMITH THEME/VALUE  
INVESTMENT MANAGEMENT, LTD.,  
MESSNER & SMITH, L.L.C.,  
MESSNER AND SMITH SMALL/MID  
PARTNERS, L.P., AND MESSNER  
SMITH & ASSOCIATES, LLC**

1 Pursuant to Federal Rule of Civil Procedure 55(c), Plaintiffs, the Trustees of the Nevada  
2 Resort Association-International Alliance of Theatrical Stage Employees and Moving Picture  
3 Machine Operators of the United States and Canada Local 720 Pension Trust; Trustees of the  
4 Nevada Resort Association-International Alliance of Theatrical Stage Employees and Moving  
5 Picture Machine Operators of the United States and Canada Local 720 Wage Disability Trust; and  
6 Trustees of the Nevada Resort Association-International Alliance of Theatrical Stage Employees  
7 and Moving Picture Machine Operators of the United States and Canada Local 720 Apprentice  
8 and Journeyman Training and Education Trust (collectively referred to as "Trust Funds") move  
9 the Court to set aside the Defaults entered against Defendants, Messner & Smith Theme/Value  
10 Investment Management, LTD., a California corporation, Messner & Smith, L.L.C., a California  
11 limited liability company, Messner and Smith Small/Mid Partners, L.P., a California limited  
12 partnership, and Messner Smith & Associates, LLC, a California limited liability company  
13 (collectively operating as a single unit and referred to herein as "M&S").  
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M&S filed its Answer on October 21, 2011.<sup>1</sup> The Clerk entered the Defaults on the same day.<sup>2</sup> Plaintiffs' request the Court to enter an Order setting aside these Defaults, as it is clear M&S intends to defend this action.

Further, in light of M&S's late entry into the case, Plaintiffs request that the Court direct the parties to confer regarding a new discovery schedule resetting the current deadlines to accommodate this development.

Dated: October 26, 2011

BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ Aaron Fricke

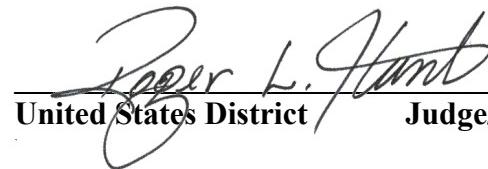
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*Attorneys for Plaintiffs*

**ORDER**

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
United States District      Judge

Dated: November 15, 2011

<sup>1</sup> ECF No. 54

<sup>2</sup> ECF No. 55

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on this 26th day of October, 2011, I served a true copy of the foregoing **MOTION TO SET ASIDE DEFAULTS AGAINST DEFENDANTS MESSNER & SMITH THEME/VALUE INVESTMENT MANAGEMENT, LTD, MESSNER & SMITH, L.L.C., MESSNER AND SMITH SMALL/MID PARTNERS, L.P, AND MESSNER SMITH & ASSOCIATES, LLC** upon:

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*& Associates, LLC*

a. BY CM/ECF System

**I declare under penalty of perjury that the foregoing is true and correct.**

/s/ Ebony Davis

An Employee of Brownstein Hyatt Farber Schreck, LLP